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GOOGLE INC.

19 **UNITED STATES DISTRICT COURT**

20 **DISTRICT OF NEVADA**

22 Unwired Planet LLC,
23 Plaintiff,
24 vs.

25 Google Inc.,
26 Defendant.

Case No. 3:12-cv-504-MMD-VPC

**JOINT REPORT RE FACT DISCOVERY
CONDUCTED BY MUTUAL
AGREEMENT**

27 AND RELATED COUNTERCLAIMS
28

1 Pursuant to the Court's order of November 20, 2014 (Dkt. 445), the parties submit this
2 joint report regarding whether fact discovery continued past May 30 by mutual agreement. The
3 parties did in fact conduct all of the discovery listed in Dkt. 325 after the close of fact discovery by
4 mutual agreement, other than the third party deposition of former Unwired Planet executive Mr.
5 Peterschmidt, which Google is no longer pursuing.

6 With respect to the second issue in Docket 326, Google did not agree to include in Dkt.
7 325 a request to extend the fact discovery period for Unwired Planet to continue to pursue
8 document and deposition subpoenas that it had served on Facebook, Twitter, Snapchat,
9 WhatsApp, Apple, BlackBerry (formerly RIM), and Microsoft. On May 30, 2014, the last day of
10 fact discovery, Unwired Planet moved for further time to obtain that discovery. Dkt. 326 at 4-5.
11 Google opposed, arguing that the Scheduling Order should not be modified because Unwired
12 Planet had not been diligent in pursuing the discovery at issue. Dkt. 341 at 4-6. Subsequently,
13 after the close of fact discovery, BlackBerry produced some documents in response to Unwired
14 Planet's subpoena. In the parties' "Joint Notice Regarding Status of Pending Discovery Motions"
15 (Dkt. 434), Unwired Planet informed the Court that it has elected not to pursue any further
16 discovery from Facebook, Twitter, Snapchat, WhatsApp, Apple, BlackBerry, or Microsoft, but
17 that it wants to confirm that it may use the late-produced RIM documents:

18 With respect to the portions [of Dkt. 326] dealing with subpoena
19 responses, Unwired Planet has continued to negotiate with those
20 third parties, and believes the only live issue relates to its subpoena
21 to RIM. Unwired Planet received documents responding to its
22 subpoena from RIM on June 3, 2014, three days after fact discovery
closed, and believes it should be permitted to rely upon those
documents for the reasons stated in the motion. All remaining relief
except that previously mentioned is now moot.

23 Google does not object to Unwired Planet's use of the RIM documents produced on June
24 3, 2104 on the basis that they were produced three days after the close of fact discovery. Google
25 reserves all other evidentiary objections to those documents. As a result of Google's agreement,
26 the parties agree that the portion of Dkt. 326 dealing with subpoena responses is now moot.
27
28

1 DATED: December 3, 2014

MUNGER, TOLLES & OLSON LLP

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3 By: /s/ Peter E. Gratzinger

4 Peter E. Gratzinger

5 Attorneys for Defendant Google Inc.

6 DATED: December 3, 2014

MCKOOL SMITH, P.C.

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8 By: /s/ Kevin Kneupper

9 Kevin Kneupper

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CERTIFICATE OF SERVICE

I certify that, on December 3, 2014, I served a true and correct copy of **JOINT REPORT RE FACT DISCOVERY CONDUCTED BY MUTUAL AGREEMENT** upon the following counsel of record through the Court's CM/ECF system:

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